

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of Modifications to its SmartMeter™ Program and Increased Revenue Requirements to Recover the Costs of the Modifications (U39M).

Application 11-03-014
(Filed March 24, 2011)

And Related Matters.

Application 11-03-015
Application 11-07-020

**DECISION GRANTING COMPENSATION TO AGLET CONSUMER ALLIANCE
FOR SUBSTANTIAL CONTRIBUTION TO DECISION (D.) 14-12-078**

Intervenor: Aglet Consumer Alliance	For contribution to Decision (D.) 14-12-078
Claimed: \$86,544.84	Awarded: \$85,395.69 (reduced 1.32%)
Assigned Commissioner: Michael Picker	Assigned ALJ: Amy C. Yip-Kikugawa

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	The Decision, issued in Phase 2 of this proceeding, adopted fees and charges for residential customers of Pacific Gas and Electric Company (PG&E) and other California electric utilities who opt-out of wireless smart meters. The Decision authorized recorded cost ratemaking for opt-out service, including balancing account treatment of revenues and revenue requirements.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	May 6, 2011	Verified
2. Other specified date for NOI:		

3. Date NOI filed:	June 6, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See comment below.	A.11-03-014
6. Date of ALJ ruling:		01/10/2013
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See comment below.	A.11-03-014
10. Date of ALJ ruling:		01/10/2013
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-12-078	Verified
14. Date of issuance of Final Order or Decision:	December 23, 2014	Verified
15. File date of compensation request:	February 13, 2015	Verified
16. Was the request for compensation timely?		Yes

A. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
5	<u>Customer Status.</u> The Commission did not issue an eligibility ruling in response to Aglet’s NOI. Aglet is a Category 3 customer. See pp. 1-2 of the NOI for discussion of Aglet’s customer status. In D.13-01-015 the Commission concluded that Aglet’s compensation claim in Phase 1 of this proceeding satisfied all requirements of Public Utilities Code §§ 1801-1812. Those requirements include a showing of customer status.	The Commission accepts Aglet’s assertion.

9	<p><u>Significant Financial Hardship.</u> The Commission did not issue an eligibility ruling in response to Aglet's NOI. See p. 4 of the NOI for discussion of financial hardship. On June 3, 2011, less than three months after PG&E filed the instant application, the Commission issued a ruling that determined that Aglet was eligible for compensation in A.10-11-015. The ruling included a finding of significant financial hardship. In D.13-01-015 the Commission concluded that Aglet's compensation claim in Phase 1 of this proceeding satisfied all requirements of Public Utilities Code §§ 1801-1812. Those requirements include a showing of significant financial hardship.</p>	
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. <u>General.</u> Aglet's Phase 2 general work amounted to 14.7 hours, which is 5.5% of Aglet's net request. General work covered: attendance at a prehearing conference; initial discovery; review of ALJ procedural rulings; scheduling; coordination with other parties; review of miscellaneous pleadings filed by other parties; and review of public participation hearing transcripts.</p>	<p>General work was a small portion of Aglet's recorded professional hours, and it was necessary for Aglet to participate fully in the proceeding. Aglet is willing to allocate general hours to individual substantive issues if that is the Commission's preference.</p>	<p>Verified</p>
<p>2. <u>Rate discrimination.</u> Aglet spent 8.4 hours reviewing pleadings filed by other parties on community opt out, rate discrimination, and compliance with the Americans with</p>	<p>Aglet requests compensation for limited amounts of time spent reviewing pleadings filed by other parties. Such review was necessary for Aglet to stay informed and participate fully in Phase 2. Aglet's request excludes time</p>	<p>Verified</p>

<p>Disabilities Act (ADA). (See Aglet time records in Attachment 3 for days immediately prior to filing of reply briefs on July 21, 2012.)</p>	<p>preparing a reply brief on these issues.</p>	
<p>3. <u>Costs and Cost Allocation.</u></p> <p>Aglet's showing in Phase 2 emphasized costs of opt out service, allocation of costs to customer classes, customer fees and charges, and analysis of recorded cost vs. forecast cost ratemaking. (Aglet opening brief, January 11, 2013, pp. 1-26.)</p> <p>Aglet opening brief, p. 2, "Depending on the Commission's chosen cost allocation, a customer's decision to opt out can substantially increase energy bills in the near term." The Decision cites Exhibit Aglet-1 at 6, 24.</p> <p>Aglet noted that recovery of utility costs from customers that cause them is a useful ratemaking principle, but there are other factors that the Commission should consider in determining how to allocate opt out costs. (Aglet opening brief, p. 11.)</p> <p>Aglet pointed out that smart meter program costs are allocated to a broad customer base. (Aglet opening brief, p. 14, paragraph (6).)</p>	<p><u>Decision, p. 8, footnote 6.</u> "The Commission does recognize Aglet's participation and development of the record on the topic of [utility] costs associated with opt-outs."</p> <p><u>Decision, p. 38, discussion and footnote 139.</u> "[Aglet] presents the most cogent counter-argument [to imposing all out opt program costs on opt out customers], and one with which we agree. ... 'Depending on the Commission's chosen cost allocation, <i>a customer's decision to opt out could substantially increase energy bills in the near term.</i>'" (Italics in Decision.)</p> <p><u>Decision, p. 42.</u> The Commission explicitly agreed with Aglet.</p> <p><u>Decision, p. 42, citing Aglet's opening brief.</u> "We further agree with Aglet that allocation of opt-out program costs to a broad customer base would be consistent with the Commission's adopted cost allocation for utility smart meter programs as a whole." See also Decision, p. 76, Conclusion of Law 19.</p>	<p>Yes. Aglet's participation enriched the record of this proceeding and provided the Commission with constructive analysis and feedback regarding the cost allocation of opt-out services.</p>

<p>4. <u>Recorded Cost Ratemaking.</u></p> <p>Aglet argued that customer participation in utility opt out programs is uncertain. (Aglet opening brief, p. iv, Recommendation h; and p. 8.)</p> <p>Aglet pointed out various problems with balancing account treatment of utility costs. (Aglet opening brief, p. 18.)</p> <p>Aglet identified ratemaking ambiguities in the two proposed decisions that preceded the Decision. (Aglet opening comments on proposed decisions, November 18, 2014, pp. 2-9.)</p> <p>Aglet proposed specific revisions to ordering paragraphs meant to adopt recorded cost ratemaking. (See Aglet opening comments, pp. 6-8, revisions to proposed Ordering Paragraphs 1, 3, 4, 6, 7, 9, 10 and 12; the numbering changed in the eventual Decision.)</p>	<p><u>Decision, p. 2.</u> “In view of the utility overstatement of opt-out service revenue requirements ... we adopt a balancing account (<i>i.e.</i>, ‘recorded cost’) approach”</p> <p><u>Decision, p. 48.</u> “We are sensitive to the concerns Aglet raises with balancing account treatment.”</p> <p><u>Decision, p. 69.</u> “In their comments and reply comments Aglet [and other parties] seek clarity with regards to ordering paragraphs on balancing account treatment. ... We adopt Aglet’s revision with some modification. The revisions authorize the utilities to create balancing accounts to record the amount of revenues collected from opt-out customers as compared to the recorded costs of opt-out service.” See Decision, pp. 78-82, Ordering Paragraphs 1, 4, 5, 7, 10, 11, 13, 16, 17, 19, 22 and 23.</p>	<p>Yes. Although Aglet’s participation on the issue of balancing account treatments was somewhat duplicative of the work of other parties, the Decision’s utilization of Aglet’s proposed revisions eliminates any reduction for duplication to Aglet on this issue.</p>
<p>5. <u>Fee Caps and Exit Fees.</u></p> <p>Aglet recommended that opt out fees and charges be capped, and any undercollections should be allocated broadly. (Aglet opening brief, pp. 11-15, specifically p. 12.)</p> <p>Aglet summarized utility positions on exit fees. (Aglet opening brief, p. 16.)</p> <p>Aglet analyzed and opposed exit fees. (Aglet opening brief, pp. 16-17; Exhibit Aglet 1 at</p>	<p><u>Decision, p. 39.</u> “We agree with Aglet that setting a cap on fees is appropriate in this instance” See also Decision, p. 76, Conclusions of Law 14 and 15.</p> <p><u>Decision, p. 74, Finding of Fact 12.</u> The Commission found that the utilities proposed to impose exit fees on opt out customers.</p> <p><u>Decision, p. 41, citing Aglet testimony, and footnote 142.</u> “We agree with intervenors that no exit fee shall be</p>	<p>Yes</p>

20.)	assessed upon opt-out customers.” See also Decision, p. 77, Conclusion of Law 23.	
6. <u>Settlement Efforts</u> . Aglet requests compensation for 5.1 hours of time spent preparing for and participating in a mandatory settlement conference.	The parties did not settle, but Aglet’s efforts regarding this activity were necessary to protect the interests of its members. Denial of compensation for settlement work would deter Aglet and other intervenors from trying to settle difficult issues, which would be contrary to Commission policy that encourages settlements. As well, utilities could use the threat of loss of compensation to coerce intervenors to accept settlements that they might otherwise reject.	Yes

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor’s Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? ¹	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes, in part	Verified
c. If so, provide names of other parties: Depending on individual issues, other parties with similar positions included The Utility Reform Network (TURN); EMF Safety Network (Network); Ecological Options Network; and Utility Consumers’ Action Network (UCAN).		Verified
d. Intervenor’s claim of non-duplication: Aglet actively coordinated its work with TURN, ORA, Network and UCAN. See Attachment 3, line items dated Feb 7, Feb 16, Jun 11, Jun 22, Aug 24, Aug 28, Sep 9, Sep 10, Sep 17, Sep 25, Sep 26, Oct 8, and Nov 26, 2012. However, Aglet, TURN, ORA and Network did not agree on all major opt out program issues. For example, Aglet did not support the recommendations of TURN and ORA for one-way balancing accounts. (Decision, discussion at pp. 47-48.) Aglet recommended specific caps on opt out fees and charges, but Network opposed all initial fees and monthly charges. (Decision, discussion at p. 39.)		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
	<p>In its compensation request filed in Phase 1, Aglet deferred to Phase 2 a total of 10.1 hours of time spent on a joint protest to PG&E's compliance advice letter, Advice No. 3275-G/ 4002-E. (Aglet compensation request, April 9, 2012, Attachment 3, issue allocation table at the bottom of p. 4, line 7.) Grounds for the protest included various cost and cost allocation issues. Energy Division denied the protest, stating that the Commission deferred cost and cost allocation issues to Phase 2. (Energy Division "disposition letter" from Edward Randolph, Director, March 8, 2012; Energy Division first mailed the disposition letter to Aglet on June 4, 2012, after Aglet filed its Phase 1 compensation request.) Because Aglet was not aware of any Commission action in response to the protest when Aglet filed its Phase 1 compensation request, and the Commission eventually did take up cost and cost allocation issues in Phase 2, Aglet includes the deferred 10.1 hours in the instant Phase 2 compensation request, categorized under cost and cost allocation issues. (See Attachment 3, lines 1-7.)</p>	<p>Decision D.12-02-014, issued February 09, 2012, notes on page 35 that "This decision determines that a second phase in this proceeding is necessary to consider cost and cost allocation issues associated with providing the analog meter opt-out option..." Despite this warning in the decision, Aglet decided to file a protest to PG&E's compliance advice letter. Aglet and TURN's work on the protest after D.12-02-014 was issued is therefore denied. Aglet will receive credit for 0.9 hours out of 10.1 total hours on this issue.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
<p>The Decision authorized electric utilities to recover up to \$61.8 million of actual costs for opt out service. (Decision, summary table at pp. 2, 37.) Larger amounts were at stake. For example, PG&E reduced its estimate of opt out customers from 148,500 to 54,000 during the course of Phase 2. (Decision, footnote 13 at p. 10, discussion at p. 43.) Perhaps more importantly to some customers, many public participants asserted serious health impacts of smart meters. The Decision adopted several of Aglet's cost allocation and ratemaking proposals. Compared to the money and health issues at stake, Aglet's request for \$86,545 in compensation is reasonable.</p>	Verified
<p>b. Reasonableness of hours claimed:</p> <p>Aglet claims compensation for 268.4 hours of Weil's professional time. Phase 2 was active from May 2012 through December 2014. Many parties participated in formal proceedings, and Aglet attended more than a week of hearings. The technical and ratemaking issues were novel and vigorously contested. Considering the scale of ratepayer funds and public health concerns at issue, Aglet's hours are reasonable.</p> <p>Aglet waives compensation for travel time.</p>	Verified
<p>c. Allocation of hours by issue:</p> <p>See Attachment 3, p. 9, for a listing of the substantive issues in which Aglet participated, along with Weil's professional hours recorded or allocated to each issue. Aglet focused its efforts on cost and cost allocation issues, which appeared first on the list of issues identified in the Phase 2 scoping memo. (Decision, p. 6.)</p> <p>Weil's time records categorize some of his time as "All Aglet Issues" or "Phase 2 issues" because time spent in hearings and writing briefs could not conveniently be assigned to individual issues. Aglet has allocated Weil's time spent on "All Aglet Issues" and "Phase 2 issues" to individual substantive issues based on page counts in Aglet's written work products (testimony, briefs, comments on proposed decisions) and informed judgment.</p> <p>Because Aglet did not prevail on community opt out, rate discrimination and ADA compliance issues, Aglet has removed from this request 6.4 hours of 2012 time spent preparing a reply brief on those issues. (Attachment 3, pages 8 and 9.) Aglet does request compensation for limited amounts of time spent reviewing related pleadings filed by other parties. Such review was necessary for Aglet to stay informed and</p>	Verified

participate fully in Phase 2.

Aglet has voluntarily removed from this request 9.5 hours allocated to the issue of customer credits meant to account for the fact that opt out customers relieve the utility from the costs of providing smart meters. Aglet raised the issue in testimony and briefs, but the Decision did not address the issue. The hours removed are spread across the years 2012, 2013 and 2014. (Attachment 3, page 8, lines labeled “Adjustment” for each year.)

The result of Aglet’s allocation of requested professional hours by issue, after adjustments, is: general (14.7 hours); rate discrimination (8.4 hours); opt out costs and cost allocation (170.6 hours); recorded cost ratemaking and balancing accounts (59.5 hours); fee caps and exit fees (10.2 hours); settlement conference (5.1 hours) and opt out customer credits (0 hours). The total adjusted request includes 268.4 hours of professional time. (Attachment 3, table on page 9.)

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
James Weil	2012	201.9	\$310	D.13-06-020	\$62,589.00	199.1 ^[A]	\$310.00 ₂	\$61,721.00
James Weil	2013	32.9	\$315	Increase 2%; Res. ALJ-287	\$10,363.50	32.9	\$315.00 ₃	\$10,363.50
James Weil	2014	33.6	\$325	Increase 2.58%; Res. ALJ-303	\$10,920.00	33.6	\$325.00 ₄	\$10,920.00
Subtotal: \$83,872.50						Subtotal: \$83,004.50		

² Approved in D.13-06-020.

³ Application of 2.0% Cost of Living Adjustment approved in Res. ALJ-287.

⁴ Application of 2.58% Cost of Living Adjustment approved in Res. ALJ-303.

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hour s	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
James Weil	2015	12.9	\$162.50	One half of 2014 rate above	\$2,096.25	12.9	\$162.50	\$2,096.25
Subtotal: \$2,096.25						Subtotal: \$2,096.25		
COSTS								
#	Item	Detail			Amount	Amount		
1	Copies	Aglet office copies, 1,829 at 11 cents; Commercial copies			\$201.19 \$83.27	\$266.17 ^[B]		
2	Postage	Paper copies to the Commission; discovery documents			\$28.77	\$28.77		
3	Bridge tolls	Participation at SF hearings			\$12.00	\$0.00 ^[B]		
4	Parking	Participation at SF hearings			\$50.50	\$0.00 ^[B]		
5	Vehicle mileage	Participation at SF hearings: 361 miles at 55.5 cents (2012 rate)			\$200.36	\$0.00 ^[B]		
TOTAL REQUEST: \$86,544.84						TOTAL AWARD: \$85,395.69		
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at one half of preparer's normal hourly rate</p>								

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Service List
3	Aglet Hours and Costs

D. CPUC Disallowances and Adjustments:

Item	Reason
A	Reduction for hours spent on protest to PG&E's compliance advice letter filing. See above explanation in Part IIC. Increase of 6.4 hours for time spent on issues Aglet did not prevail on. The Commission may still compensate intervenors for work that substantially contributes to a decision, even if the intervenor does not ultimately prevail on that issue.
B	Reductions for travel, parking, toll, and printing fees. Copies are compensated at a rate of 10 cents per page. Aglet's commercial copying charged will be fully compensated as these copying costs were for specialized exhibits. Aglet's routine travel costs are disallowed. Aglet's travel was within a 120 mile radius, and therefore is non-compensable. See D. 09-04-029 and D. 10-11-032. Additionally, the Commission does not compensate at a rate of \$0.55 cents per mile. Any fuel costs for compensable travel must be documented with receipts.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. Aglet has made a substantial contribution to D.14-12-078.
2. The requested hourly rates for Aglet's representative, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$85,395.69.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Aglet Consumer Alliance shall be awarded \$85,395.69.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company shall pay Aglet Consumer Alliance their respective shares of the award, based on their California-jurisdictional electric revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning April 29, 2015, the 75th day after the filing of Aglet Consumer Alliance's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, 2015 at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1412078		
Proceeding(s):	A1103014; A1103015; A1107020		
Author:	ALJ Yip-Kikugawa		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Aglet Consumer Alliance	02/13/15	\$86,544.84	\$85,395.69	N/A	Reductions for non-substantial contribution and inappropriate travel costs.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
James	Weil	Expert	TURN	\$310.00	2012	\$310.00
James	Weil	Expert	TURN	\$315.00	2013	\$315.00
James	Weil	Expert	TURN	\$325.00	2014	\$325.00
James	Weil	Expert	TURN	\$325.00	2015	\$325.00

(END OF APPENDIX)